IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

FRIDAY, THE 24TH AUGUST 2007 / 2ND BHADRA 1929

Crl.Rev.Pet.No. 3157 of 2007()

AGAINST THE ORDER IN CP. 7 /2007 IN
CC.126/2007 of JUDL. MAGISTRATE OF FIRST CLASS COURT,
KATTAKADA

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REVN. PETITIONER: CW-1:

JAYADEVI, D/O. DEVAKI,
KP III/444, JAYAVILASOM, KUNJUKONAM,
VADAKKUMKARA, THIRUVANANTHAPURAM.

BY ADV. SRI.SUMAN CHAKRAVARTHY

RESPONDENTS:

THE STATE OF KERALA,
REP. BY ITS PUBLIC PROSECUTOR,HIGH COURT OF KERALA

BY PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 24/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

Crl. R.P. No. 3157 OF 2007

Dated this the 24th day of August, 2007

O R D E R

The revision petitioner is the defacto complainant in Crime No.258/06 of Neyyardam Police Station for offences punishable under sections 447 and 436 IPC. He challenges the order dated 13.2.07 passed by the JFCM, Kattakkada in CP.No.7/07.

2. Eventhough the 2nd respondent/accused was duly served, he has not chosen to enter appearance.

3. After investigation in the above crime, the police filed a charge sheet against the 2nd respondent herein for the aforesaid offences. The JFCM, Kattakkada took cognizance of the aforesaid offences and registered the case as C.P.No.7/2007 on 1.2.2007. Thereafter, on 13.2.07 the Magistrate took the view that section 436 IPC is not made out and converted the C.P. case into a C.C. case and re-registered the case as C.C.No.126/07. It is the said order which is assailed by the defacto complainant.

4. The procedure adopted by the learned Magistrate is a strange one. After taking cognizance of the offences one of which

is sessions offence and after registering the case as CP.7/07 the Magistrate could not have made a somersault by deleting the offence under section 436 IPC and converting the committal proceedings into C.C.No.126/07. That at best, could have been done by the court of sessions under section 228 Cr.P.C. after the preliminary hearing under section 227 Cr.P.C. The order passed by the Magistrate deleting section 436 IPC and re-registering the case as C.C.126/07 is set aside and the Magistrate is directed to proceed with CP.7/07 in accordance with law.

This revision is disposed of as above.

(V. RAMKUMAR, JUDGE)

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